



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912**

**SPECIAL NOTICE LETTER -- URGENT LEGAL MATTER  
PROMPT REPLY NECESSARY  
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

April 17, 2019

ITT Corporation n/k/a ITT, LLC c/o  
Katherine A. Joyce, Esq.  
Bernstein Shur  
100 Middle Street  
PO Box 9729  
Portland ME 04104-5029

Re: Special Notice Letter for the Keddy Mill Superfund Site in South Windham, Maine

Dear Ms. Joyce:

This letter follows the general notice letter that the U.S. Environmental Protection Agency ("EPA") sent to ITT Corporation n/k/a ITT, LLC ("ITT") on December 20, 2016 in connection with the Keddy Mill Superfund Site ("the Site"), located in South Windham, Maine. In that letter, EPA notified ITT of ITT's potential responsibility under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"), 42 U.S.C. § 9607(a), for the cleanup of the Site, including all costs incurred by EPA in responding to releases at the Site. As you know, following receipt of the general notice letter, ITT entered into a May 2017 Administrative Agreement and Order on Consent with EPA in which it agreed to conduct an Engineering Evaluation and Cost Analysis ("EE/CA"). EPA is now contacting ITT in an attempt to resolve ITT's responsibility for the Non-Time Critical Removal Action ("NTCRA") required at the Site.

**Background**

Based on an extensive review of records related to the release and/or disposal of hazardous substances at the Site, EPA has identified ITT as one of three potentially responsible parties ("PRPs") responsible for hazardous substances at the Site. Enclosed with this letter is an affidavit and supporting documents which further establish a connection between ITT's predecessor in interest and the Site (Enclosure A). Under the federal Superfund law, ITT and the other PRPs at the Site are responsible for the costs of cleaning up the Site. EPA has selected a NTCRA as a short-term cleanup approach for the Site, which is described in a document called

an Action Memorandum issued by EPA on September 28, 2018. A Remedial Investigation/Feasibility Study is ongoing.

### **Special Notice and Negotiation Moratorium**

EPA has determined that use of the special notice procedures set forth in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), may facilitate a settlement between ITT, other PRPs, and EPA for implementation of the NTCRA. Under Section 122(e), this letter triggers a 60-day moratorium on certain EPA response activities at the Site. During this 60-day moratorium, EPA will not begin response action at the Site. However, EPA reserves the right to take action at the Site at any time should a significant threat to human health or the environment arise.

During this 60-day period, ITT and the other PRPs are invited to participate in formal negotiations with EPA in an effort to reach a settlement to conduct or finance the response action at the Site. The 60-day negotiation period ends on June 17, 2019. The 60-day negotiation moratorium will be extended for an additional 60 days if the PRPs provide EPA with a “good faith offer” to conduct or finance the response action. If EPA determines that your proposal is not a “good faith offer,” you will be notified in writing of EPA’s decision to end the moratorium. If the moratorium is extended for an additional 60 days, negotiations will conclude on August 16, 2019. If settlement is reached between EPA and the PRPs within the 120-day negotiation moratorium, the settlement will be embodied in an administrative settlement agreement and order on consent (“AOC” or “Administrative Order”).

If a “good faith offer” is not received within 60 days, or a timely settlement cannot be reached, EPA may take appropriate action at the Site, which may include either of the following options: (1) EPA may fund the removal action and pursue a cost recovery claim under Section 107 of CERCLA, 42 U.S.C. § 9607, against ITT and/or the other PRPs; or (2) EPA may issue a Unilateral Administrative Order (“UAO”) to ITT and/or the other PRPs under Section 106(a) of CERCLA, 42 U.S.C. § 9606, requiring ITT and/or the other PRPs to perform the work described in the Action Memorandum. If the recipients of a UAO refuse to comply with the UAO, EPA may pursue civil litigation against the recipients to require compliance.

### **Good Faith Offer**

A proposed Administrative Order (Enclosure B) and Statement of Work (Appendix C to the Administrative Order) is enclosed to assist you in developing a “good faith offer.”<sup>1</sup> As indicated, the 60-day negotiation moratorium triggered by this letter is extended for 60 days if the PRPs submit a “good faith offer” to EPA. A “good faith offer” to conduct or finance the NTCRA is a written proposal that demonstrates the qualifications and willingness of the PRPs to conduct or finance the NTCRA, and includes the following elements:

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<sup>1</sup>This draft Administrative Order is not currently binding on EPA and is subject to revision and approval by EPA. It is based on the model AOC, which is available at [https://cfpub.epa.gov/compliance/models/view.cfm?model\\_ID=754](https://cfpub.epa.gov/compliance/models/view.cfm?model_ID=754).



- A statement of your willingness and financial ability to implement the requirements of the Action Memorandum and proposed Administrative Order and that provides a sufficient basis for further negotiation;
- A demonstration of your technical capability to carry out the NTCRA, including identification of the firm(s) that may actually conduct the work or a description of the process that will be undertaken to select the firm(s);
- A response to the proposed Statement of Work. If your offer contemplates modifications to the Statement of Work, please make revisions or edits to the Statement of Work and submit a version showing your proposed modifications to it;
- A statement of your willingness to reimburse EPA for costs EPA will incur in overseeing your implementation of the NTCRA;
- A response to the proposed Administrative Order. If your offer contemplates modifications to the Administrative Order, please make revisions or edits to the Administrative Order and submit a version showing your proposed modifications to it;
- A list identifying each party on whose behalf the offer is being made, including name, address, and telephone number of each party; and
- The name, address, and phone number of the party who will represent you in negotiations.

Some or all of the costs associated with this Notice may be covered by current or past insurance policies issued to ITT. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of ITT's first contact with the Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

In the event that ITT files for protection in a bankruptcy court, ITT must include EPA as a creditor, because EPA has a potential claim against ITT. EPA reserves the right to file a proof of claim or application for reimbursement of administrative expenses.

### **PRP Group**

To assist the PRPs in negotiating with EPA concerning this matter, EPA is attaching to this letter copies of the letters sent to the other PRPs receiving this Notice, including their names and addresses (Enclosure C).

## **Administrative Record**

In accordance with Section 113 of CERCLA, 42 U.S.C. § 9613, EPA has established an Administrative Record containing the documents that serve as the basis for EPA's selection of the appropriate response action for the Site.

The administrative record is available for review online at <https://semspub.epa.gov/src/collection/01/AR65660> or <https://go.usa.gov/xQv95>. Additional information about the Site is also available at [www.epa.gov/superfund/keddy](http://www.epa.gov/superfund/keddy).

The Administrative Record is located at:

EPA New England  
Office of Site Remediation & Restoration  
Records and Information Center  
5 Post Office Square, Suite 100 (OSRR02-3)  
Boston, MA 02109-3912  
(by appointment)  
617-918-1440 (phone)  
617-918-0440 (fax)

Windham Public Library  
217 Windham Center Road  
Windham, Maine 04062  
207-892-1908 (phone)  
207-892-1915 (fax)  
[www.windham.lib.me.us/](http://www.windham.lib.me.us/)

You may wish to review the Administrative Record to assist you in responding to this letter, but your review should not delay such response beyond the 60-day period provided by CERCLA.

## **PRP Response and EPA Contact Person**

You are encouraged to contact EPA by June 17, 2019 to indicate ITT's willingness to participate in future negotiations concerning this Site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that ITT does not wish to negotiate a resolution of ITT's liabilities in connection with the Site, and that ITT has declined any involvement in performing the response activities.

Your response to this Special Notice Letter, including written proposals to perform the NTCRA for the Site, should be sent to:

Leslie McVickar  
Remedial Project Manager  
U.S. Environmental Protection Agency  
Office of Site Remediation and Restoration

NTCRA at Keddy Mill Superfund Site  
ITT, LLC

5 Post Office Square, Suite 100 (OSRR07-4)  
Boston, MA 02109-3912

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final EPA position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by the conditions at the Site, EPA urges that you give immediate attention and prompt response to this letter.

If you have any questions regarding the technical aspects of this letter, please contact Leslie McVickar, Remedial Project Manager, at (617) 918-1374. For legal matters, please direct questions to Susan Scott, Senior Enforcement Counsel, at 617-918-1778.

My staff and I look forward to working with you during the coming months.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Olson', with a long horizontal line extending to the right.

Bryan Olson  
Director, Office of Site Remediation and Restoration

cc: Rebecca Hewitt, Maine DEP Project Manager  
Susan Scott, EPA Senior Enforcement Counsel  
Leslie McVickar, EPA Remedial Project Manager  
Alex Sherrin, EPA On-Scene Coordinator  
Patti Ludwig, EPA CERCLIS Data Administrator  
EPA OSRR Records Center

Enclosures: (mailed previously under separate cover)  
Enclosure A - Affidavit and Supporting Information (James Israel 2017)  
Enclosure B - Draft Administrative Order (EPA)  
- Appendix A – 09/28/2018 Action Memorandum (EPA)  
- Appendix B – Site Layout Figure  
- Appendix C – NTCRA Scope of Work (EPA)  
• Attachment 1 – 2017 Engineering Evaluation/Cost Analysis (ERM)  
• Attachment 2 – 2015 Conceptual Site Model (Nobis)  
Enclosure C – Copies of Letters sent to other Notice Recipients